

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JAMAL JENKINS,

No. C-10-1687 TEH (PR)

Plaintiff,

v.

ORDER OF DISMISSAL WITH LEAVE
TO AMEND

ELOY MEDINA, et. al.,

Defendant(s) .

_____ /

Plaintiff, a prisoner presently incarcerated at Pleasant Valley State Prison, has filed a pro se civil rights Complaint under 42 U.S.C. § 1983 alleging violations of his constitutional rights by officials at Salinas Valley State Prison that occurred while he was incarcerated at that facility. The forty-one page handwritten Complaint contains allegations against many Defendants, including unnamed "Doe Defendants," regarding incidents unrelated to each other that occurred on different dates spread out across a period of years, and references prison grievances that are too numerous for the Court to count easily. See Doc. ## 3 & 3-1. For the reasons that follow, the Complaint is DISMISSED with LEAVE TO AMEND within

1 thirty (30) days of the date of this Order.

2
3 I

4 Federal courts must engage in a preliminary screening of
5 cases in which prisoners seek redress from a governmental entity or
6 officer or employee of a governmental entity. 28 U.S.C. § 1915A(a).
7 The court must identify cognizable claims or dismiss the complaint,
8 or any portion of the complaint, if the complaint "is frivolous,
9 malicious, or fails to state a claim upon which relief may be
10 granted," or "seeks monetary relief from a defendant who is immune
11 from such relief." Id. § 1915A(b).

12 To state a claim under 42 U.S.C. § 1983, a plaintiff must
13 allege two essential elements: (1) that a right secured by the
14 Constitution or laws of the United States was violated, and (2) that
15 the alleged violation was committed by a person acting under the
16 color of state law. West v. Atkins, 487 U.S. 42, 48 (1988).

17
18 II

19 A

20 Federal Rule of Civil Procedure 8(a)(2) requires only "a
21 short and plain statement of the claim showing that the pleader is
22 entitled to relief." "Specific facts are not necessary; the
23 statement need only "give the defendant fair notice of what the
24 . . . claim is and the grounds upon which it rests."" Erickson v.
25 Pardus, 551 U.S. 89, 93, (2007) (per curiam) (citations omitted).
26 Although to state a claim a complaint "does not need detailed
27
28

1 factual allegations, . . . a plaintiff's obligation to provide the
2 'grounds of his 'entitle[ment] to relief' requires more than labels
3 and conclusions, and a formulaic recitation of the elements of a
4 cause of action will not do. . . . Factual allegations must be
5 enough to raise a right to relief above the speculative level."
6 Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007) (citations
7 omitted). A complaint must proffer "enough facts to state a claim
8 for relief that is plausible on its face." Id. at 570.

9 The United States Supreme Court recently explained the
10 "plausible on its face" standard of Twombly as follows: "[w]hile
11 legal conclusions can provide the framework of a complaint, they
12 must be supported by factual allegations. When there are
13 well-pleaded factual allegations, a court should assume their
14 veracity and then determine whether they plausibly give rise to an
15 entitlement to relief." Ashcroft v. Iqbal, 129 S.Ct. 1937, 1950
16 (2009). Pleadings filed by pro se litigants, however, must be
17 liberally construed. Hebbe v. Pliler, 611 F.3d 1202, 1205 (9th Cir.
18 2010) ("[b]ecause Iqbal incorporated the Twombly pleading standard
19 and Twombly did not alter courts' treatment of pro se filings,"
20 pleadings filed by pro se litigants - especially pro se prisoners
21 filing civil rights complaints - must be construed liberally);
22 Balistreri v. Pacifica Police Dep't., 901 F.2d 696, 699 (9th Cir.
23 1990).

24 //

25 //

26 //

B

Federal Rule of Civil Procedure 20 allows persons to be joined in one action as defendants so long as: (1) the right to relief asserted against each defendant arises out of or relates to the same transaction or occurrence, or series of transactions or occurrences; and (2) a question of law or fact common to all defendants arises in the action. See Fed. R. Civ. P. 20(a)(2).

C

Here, even construing Plaintiff's Complaint liberally, the Court is unable to decipher precisely what Plaintiff is alleging against whom and whether the allegations plausibly give rise to an entitlement to relief. Further, on its face, Plaintiff's Complaint appears to violate Federal Rule of Civil Procedure 20(a)(2) because he alleges unrelated claims that do not contain a question of law or fact that is common to all Defendants. For the foregoing reasons, Plaintiff's Complaint is DISMISSED with LEAVE TO AMEND within thirty (30) days of the date of this Order.

III

For the foregoing reasons, the complaint is DISMISSED WITH LEAVE TO FILE AN AMENDED COMPLAINT containing all related claims against all Defendants that Plaintiff wishes to proceed against in this action. See Fed. R. Civ. P. 20(a)(2). The pleading must be simple, concise and direct and must state clearly and succinctly how each and every Defendant is alleged to have violated Plaintiff's

1 federally-protected rights. See Fed. R. Civ. P. 8(a)(2). The
2 pleading must include the caption and civil case number used in this
3 order and the words FIRST AMENDED COMPLAINT on the first page.
4 Failure to file a proper amended complaint within thirty (30) days
5 of this order will result in the dismissal of this action.

6 Plaintiff is advised that he may only allege claims in a
7 single action that (a) arise out of the same transaction,
8 occurrence, or series of transactions or occurrences and (b) present
9 questions of law or fact common to all defendants named therein.

10 See Fed. R. Civ. P. 20(a)(2). Plaintiff must file individual
11 actions for unrelated claims against unrelated Defendants. He also
12 must either pay the \$ 350.00 filing fee, or file a completed court-
13 approved in forma pauperis application, for each separately-filed
14 action. See 28 U.S.C. § 1915.

15 Plaintiff is advised that the First Amended Complaint will
16 supersede the original Complaint and all other pleadings. Claims
17 and Defendants not included in the First Amended Complaint will not
18 be considered by the Court. See King v. Atiyeh, 814 F.2d 565, 567
19 (9th Cir. 1987).

20 //

21 //

22 //

23 //

24 //


25 //

26 //

1 Plaintiff further is advised that it is his responsibility
2 to prosecute this case. Plaintiff must keep the Court informed of
3 any change of address by filing a separate paper with the Clerk
4 entitled "Notice of Change of Address," and must comply with the
5 Court's orders in a timely fashion. Failure to do so may result in
6 the dismissal of this action for failure to prosecute pursuant to
7 Federal Rule of Civil Procedure 41(b).

8
9 IT IS SO ORDERED.

10
11 DATED 09/29/10



THELTON E. HENDERSON
United States District Judge

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26 G:\PRO-SE\TEH\CR.10\Jenkins-10-1687-dwlta.wpd
27
28